

IN THE HIGH COURT OF SINDH, KARACHI
Cr. Revision Application No.158 of 2016

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Syed Fiaz ul Hassan Shah

Applicant:- MCB Bank Limited through Mr. Mehmood Ali,
Advocate.

Respondent No. 1:- Presiding Officer through Mr. Dur Muhammad Shah,
Deputy Attorney General.

Respondent
Nos.2&3:- Sajida Naqi Riaz and Adnan Naqi Riaz
through Mr. Aqib Hussain, advocate.

Respondent No. 4:- Shariq Hussain through Dr. Muhammad Khalid Hayat,
advocate.

Date of hearing:- 17.12.2025

O R D E R

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MUHAMMAD IQBAL KALHORO J: MCB/applicant filed a direct complaint in the Special Court (Offences in Banks) Sindh at Karachi against respondents alleging commission of fraud with it. Giving the background of the case, it stated that three pay orders were got generated by respondent No. 2 from her own account in Standard Chartered Bank with specific account number and words “Car Bid” duly mentioned. Allegedly, the said pay orders were handed over to respondent No.4 by respondent No. 3 in some business deal, who happened to be son of respondent No. 2. The said pay orders were then given by respondent No. 4 to three different people, who are account holders of the applicant. They deposited the pay order in their respective accounts, the same were duly processed, and the amounts transferred in their accounts, which subsequently they withdrew.

2. After sometime, the original account holder viz. respondent No. 2 approached applicant demanding the said amounts of the pay orders to be transferred back to her account which she maintained were wrongly allowed to be deposited by applicant bank in the respective accounts of

three irrelevant persons, when especially on the pay orders the words “Car Bid” and the beneficiary account was mentioned.

3. When the bank/applicant did not respond to her request, she approached the Ombudsman and filed a complaint. The Ombudsman decided the same in her favour and directed the applicant to return the amounts of the pay orders which were wrongly allowed to be deposited and money withdrawn. The order of the Ombudsman was challenged by the applicant bank before the State Bank of Pakistan whining for justice but there also the bank could not prove its case and original directions of the Ombudsman were maintained. The bank was directed to make good of the amounts to respondent No. 2, that were wrongly allowed to be deposited in the accounts of irrelevant persons and withdrawn. Then after almost three to four years the bank came up with this complaint alleging commission of fraud with it by stating that three persons who maintained their accounts with the bank were in fact in league with the respondents and they had committed fraud with the bank by depositing the pay orders in their accounts and withdrawing the cash.

4. In the direct complaint, preliminary inquiry was conducted and two witnesses were examined. Then, by the impugned order, the complaint was dismissed. The learned Presiding Officer has referred in the impugned order to all the proceedings before the Ombudsman and other forums where the bank miserably failed to establish either its bona fide or explain the lapse on its part in processing the said transactions. The Court has also observed that in the statement, complainant Ashfaq Qasim has admitted that the pay orders were wrongly deposited in the accounts when particularly the word “Car Bid” was mentioned thereon. The Court has also noted that after four years, the complaint was made. Although meanwhile the proceedings before the Ombudsman and the State bank of Pakistan had already been concluded in favour of the respondents, where the bank despite its best efforts had failed to prove its case.

5. Learned counsel for the bank apart from reiterating the facts of the case has stated that the learned Judge has not properly appreciated the material and dismissed the complaint, although the law required the complaint to be brought on the record for a decision on merits.

6. On the other hand learned counsel for respondents and DAG have supported the impugned order and submitted that *prima facie* no offence has been committed by the respondents and applicant bank has failed to

justify registration of complaint against them in the light of earlier proceedings decided against it.

7. After hearing the parties and perusing material as referred above, we do not find any error or irregularity in the impugned order. The attorney of complainant has admitted in his statement that the said pay orders were wrongly deposited and encashed. It goes without saying that in criminal cases level of proof is on higher pedestal. If any circumstance creates a reasonable doubt, benefit of which has to go to accused not as a matter of grace but as a right. On the contrary, civil cases are decided on preponderance of the evidence, where not only documents but the impact of overall circumstances qua relevant facts are gauged and accordingly determined. The bank even in the proceedings of civil nature before the Ombudsman and the State Bank of Pakistan has failed to prove its case that the pay orders were rightly deposited and encashed in favour of three irrelevant persons. More so, the record shows that bank's officials are standing criminal proceedings emanating from some FIR for wrongly processing the transactions. When the bank has failed to even establish its case in civil nature proceedings, bringing the criminal complaint, requiring higher degree of proof against the respondents after lapse of four years, was but apparently a crude attempt on its part to neutralize the proceedings already concluded against it. In the entire history leading to filing of the complaint, the bank has not explained as to what and how a fraud has been committed, or what act of the respondents constitutes the alleged offence. We therefore do not find any error or illegality in the impugned order which has rightly dismissed the complaint in limine, consequently the revision application is dismissed.

The Revision Application is accordingly disposed of in above terms.

JUDGE

JUDGE

HANIF